BILL NO. S-81-11-21

SPECIAL ORDINANCE NO. S-256-81

AN ORDINANCE approving a contract for the Advanced Wastewater Treatment Plant, Phases A, B & C, between the City of Fort Wayne, Indiana and Hagerman-Shambaugh, Joint Bidders

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1: That a certain contract dated October 28, 1981, between the City of Fort Wayne, Indiana, by and through its Mayor and the Board of Public Works, and Hagerman-Shambaugh, Joint Bidders, to provide and furnish all of the labor, materials, necessary tools, equipment, and all utility and transportation services required to perform and complete in a workmanlike manner the construction of the Advanced Wastewater Treatment Plant, Phases A, B & C, in accordance with Sewage Work Grant No. C-180744-03, for a total cost of $12,938,000.00, of which the City will pay 15%, the State of Indiana will pay 10%, and the EPA will pay 75%, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein and made a part hereof, and is hereby in all things ratified, confirmed, and approved.

SECTION 2: That this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor of the City of Fort Wayne, Indiana.

COUNCILMAN

APPROVED AS TO FORM AND LEGALITY THIS 4th DAY OF November 1981.

BRUCE O. BOXBERGER, CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by _____, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock ___ M.,E.S.T.

DATE: 11-10-81

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Eisbart, and duly adopted, placed on its passage. PASSED ~~(FAILED)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	6	1		2	
BURNS	✓				
EISBART				✓	
GiaQUINTA	✓				
NUCKOLS		✓			
SCHMIDT, D.				✓	
SCHMIDT, V.	✓				
SCHOMBURG	✓				
STIER	✓				
TALARICO	✓				

DATE: 11-24-81

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. G-256-81 on the 24th day of November, 19 81.

ATTEST: Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

(SEAL) John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of November, 1981, at the hour of 11:20 o'clock A.M.,E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 30th day of Nov. 19 81, at the hour of 11 o'clock A M.,E.S.T.

WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-81-11-21

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving a contract for the Advanced Wastewater Treatment Plant, Phases A, B & C between the City of Fort Wayne Indiana and Hagerman-Shambaugh, Joint Bidders

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

PAUL M. BURNS, CHAIRMAN

VIVIAN G. SCHMIDT, VICE CHAIRMAN

BEN A. EISBART

SAMUEL J. TALARICO

ROY J. SCHOMBURG

11-24-81
DATE

CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

C O N T R A C T

THIS CONTRACT, made the 28th. day of October, 1981, by and between HAGERMAN-SHAMBAUGH, joint bidders, hereinafter called the "Contractor" and the CITY OF FORT WAYNE, INDIANA, a municipal corporation, hereinafter called the "Owner," WITNESSETH, that the Contractor and the Owner, for the consideration stated herein, agree as follows:

ARTICLE I. SCOPE OF WORK. The Contractor shall perform everything required to be performed and shall provide and furnish all of the labor, materials, necessary tools, equipment, and all utility and transportation services required to perform and complete in a workmanlike manner the construction of

PHASES A, B, & C
ADVANCED WASTEWATER TREATMENT

for the Owner, all in strict accordance with the Drawings and Specifications, including any and all addenda, prepared by Howard Needles Tammen & Bergendoff, which Drawings and Specifications are made a part of this Contract, and in strict compliance with the Contractor's proposal and the other contract documents herein mentioned which are a part of this Contract; and the Contractor shall do everything required by this Contract and the other documents constituting a part thereof.

ARTICLE II. THE CONTRACT PRICE. The Owner shall pay to the Contractor for the performance of this Contract, subject to any additions or deductions provided herein, in current funds, the contract price of TWELVE MILLION NINE HUNDRED THIRTY-EIGHT THOUSAND AND NO/100 Dollars ($12,938,000.00). Payments are to be made to the Contractor in accordance with and subject to the provisions embodied in the documents made a part of this Contract.

ARTICLE III. COMPONENT PARTS OF THIS CONTRACT. This Contract consists of the following component parts, all of which are as fully a part of this Contract as if herein set out verbatim or, if not attached, as if hereto attached.

1. This Agreement
2. The Contractor's Proposal
3. Advertisement
4. Specifications, Including Addenda Nos. 1, 2, & 3 & 4
   a. Modifications to General Conditions of the Contract
   b. Instructions to Bidders
   c. General Conditions of the Contract
   d. Detailed Specifications
5. Drawings
   a. Detailed Drawings
   b. General Drawings

In the event that any provision in any of the above component parts of this Contract conflicts with any provision in any other of the component parts, the provision in the component part first enumerated above shall govern over any other component part which follows it numerically, except as may be otherwise specifically stated.

ARTICLE IV. GUARANTEE. The Contractor hereby agrees to protect the Owner against imperfections in materials, equipment, and workmanship, which may be or which may become apparent during the period of construction or erection, or which may develop within a period of one (1) year

subsequent to the date of final acceptance by the Owner and the Contractor shall, at his own expense, remove and replace in whole or in part any such work, materials, or equipment which may prove defective or unsuitable for the service performed or to be performed and/or which may show unreasonable deterioration within said period, upon the written demand and to the full satisfaction of the Owner.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in six (6) original counterparts the day and year first above written.

(SEAL)

Attest:

By William L. Hagerman
Secretary
Hagerman Construction Corporation

HAGERMAN-SHAMBAUGH, JOINT BIDDERS

By Mark F. Hagerman
Hagerman Construction Corporation

(SEAL)

Attest:

Secy.
Shambaugh & Son, Inc.

By
Shambaugh & Son, Inc.

(SEAL)

CITY OF FORT WAYNE, INDIANA

By
Winfield C. Moses, Jr., Mayor

Attest:

Sanford Kennedy
Clerk

By
Its Board of Public Works

APPROVED AS TO FORM AND LEGALITY

Richard D. Swadener
City Attorney

CONTRACT PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, HAGERMAN-SHAMBAUGH, Joint Bidders, Fort Wayne, Indiana, as principal, and UNITED STATES FIDELITY & GUARANTY COMPANY, as surety, are held and firmly bound unto the State of Indiana, for the benefit of the City of Fort Wayne, Indiana, hereinafter called the "Owner," in the penal sum of TWELVE MILLION NINE HUNDRED THIRTY-EIGHT THOUSAND AND NO/100 DOLLARS ($12,938,000.00) for the payment of which we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

Dated this 28th day of October, 1981.

The condition of this obligation is such that whereas the above named principal did, on the 28th day of October, 1981, enter into a contract with the Owner, by the terms of which said Principal agreed to furnish all labor, materials, equipment, and supplies for the construction of

PHASES A, B, & C
ADVANCED WASTEWATER TREATMENT

as described and defined in said contract and in the specifications and drawings, prepared by Howard Needles Tammen & Bergendoff, which are a part thereof, ready for continuous and successful operation, for the completion of said work, for the sum of TWELVE MILLION NINE HUNDRED THIRTY-EIGHT THOUSAND AND NO/100 DOLLARS ($12,938,000.00) and to remove and replace any defective or unsuitable equipment or structure at the expense of said principal which may be apparent or may develop from inferior workmanship or material within one (1) year from the date of final acceptance of the above described work, which contract is made a part of this bond the same as though set forth herein.

Now, if said principal shall well and faithfully do and perform the things agreed by it to be done and performed according to the terms of said contract, then this obligation shall be void, otherwise the same shall remain in full force and effect; and said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same, shall in any wise affect its obligation on this bond and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the contract or to the work or the specifications.

No change, modification, omission, or addition in and to the terms or conditions of said contract, plans, specifications, drawings, or profile, or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awarding thereof shall in any wise affect or operate to release or discharge said surety and the provisions and conditions of IC 5-16-5 (1971) shall be, operate as, and become a part of the terms of this bond and said contract the same as if incorporated herein.

IN WITNESS WHEREOF, we have this 28th day of October, 1981, affixed our signatures and corporate seals to six (6) executed original counterparts of this bond.

HAGERMAN-SHAMBAUGH, Joint Bidders

ATTEST:

By: William L. Kerr
Secretary

By Mark F. Hagerman
Hagerman Construction Corporation
Joint Bidder

ATTEST:

By
Shambaugh & Son, Inc.
Joint Bidder

U. S. FIDELITY & GUARANTY COMPANY

ATTEST:

Gerald A. Dahle
Attorney-in-Fact

CONTRACT PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, HAGERMAN-SHAMBAUGH, Joint Bidders, Fort Wayne, Indiana, as principal, and UNITED STATES FIDELITY & GUARANTY COMPANY, as surety, are held and firmly bound unto the State of Indiana, for the benefit of the City of Fort Wayne, Indiana, hereinafter called the "Owner," in the penal sum of TWELVE MILLION NINE HUNDRED THIRTY-EIGHT THOUSAND AND NO/100 DOLLARS ($12,938,000.00) for the payment of which we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

Dated this 28th, day of October, 1981.

The condition of this obligation is such that whereas the above named principal did, on the 28th. day of October, 1981, enter into a contract with the Owner, by the terms of which said Principal agreed to furnish all labor, materials, equipment, and supplies for the construction of

PHASES A, B, & C
ADVANCED WASTEWATER TREATMENT

as described and defined in said contract and in the specifications and drawings, prepared by Howard Needles Tammen & Bergendoff, which are a part thereof, ready for continuous and successful operation, for the completion of said work, for the sum of TWELVE MILLION NINE HUNDRED THIRTY-EIGHT THOUSAND AND NO/100 DOLLARS ($12,938,000.00) and to remove and replace any defective or unsuitable equipment or structure at the expense of said principal which may be apparent or may develop from inferior workmanship or material within one (1) year from the date of final acceptance of the above described work, which contract is made a part of this bond the same as though set forth herein.

Now, if said principal shall promptly pay all indebtedness which may accrue, by operation of law or otherwise, to any person, firm, or corporation on account of any labor or service performed or material furnished or service rendered in the carrying forward, performing, and completion of said contract; we agreeing and assenting that this undertaking directly insures to the benefit of subcontractors, laborers, material men, and those performing service on account of or directly in connection with the completion of said contract, as well as for the obligee herein; then this obligation shall be void, otherwise the same shall remain in full force and effect; and said Surety for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or to the specifictions accompanying the same, shall in any wise affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the contract, or to the work or the specifications.

No change, modification, omission, or addition in and to the terms or conditions of said contract, plans, specifications, drawings, or profile, or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awarding thereof shall in any wise affect or operate to release or discharge said surety and the provisions and conditions of IC 5-16-5 (1971) shall be, operate as, and become a part of the terms of this bond and said contract the same as if incorporated herein.

IN WITNESS WHEREOF, we have this 28th. day of October, 1981, affixed our signatures and corporate seals to six (6) executed original counterparts of this bond.

HAGERMAN-SHAMBAUGH, Joint Bidders

ATTEST:

By _____
Secretary

By _____
Hagerman Construction Corporation
Joint Bidder

ATTEST:

By _____
Shambaugh & Son, Inc.
Joint Bidder

U. S. FIDELITY & GUARANTY COMPANY

ATTEST:

_____
Attorney-in-Fact

CERTIFIED COPY

GENERAL POWER OF ATTORNEY

No. 91274

Know all Men by these Presents:

That UNITED STATES FIDELITY AND GUARANTY COMPANY, a corporation organized and existing under the laws of the State of Maryland, and having its principal office at the City of Baltimore, in the State of Maryland, does hereby constitute and appoint Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle and Leonard Shirley

of the City of Fort Wayne, State of Indiana its true and lawful attorney S in and for the State of Indiana

for the following purposes, to wit:

To sign its name as surety to, and to execute, seal and acknowledge any and all bonds, and to respectively do and perform any and all acts and things set forth in the resolution of the Board of Directors of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, a certified copy of which is hereto annexed and made a part of this Power of Attorney; and the said UNITED STATES FIDELITY AND GUARANTY COMPANY, through us, its Board of Directors, hereby ratifies and confirms all and whatsoever ~~he~~ ~~said~~ anyone of the said Arthur C. Frericks and the said Donald T. Belbutowski and the said Gerald A. Dahle and the said Leonard Shirley

may lawfully do in the premises by virtue of these presents.

In Witness Whereof, the said UNITED STATES FIDELITY AND GUARANTY COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its Vice-President and Assistant Secretary, this 5th day of December, A. D. 19 80

UNITED STATES FIDELITY AND GUARANTY COMPANY.

(Signed) By James D. Rector
Vice-President.

(SEAL)

(Signed) James T. Beresheim
Assistant Secretary.

STATE OF MARYLAND, BALTIMORE CITY, } ss:

On this 5th day of December, A. D. 19 80 before me personally came James D. Rector, Vice-President of the UNITED STATES FIDELITY AND GUARANTY COMPANY and James T. Beresheim, Assistant Secretary of said Company, with both of whom I am personally acquainted, who being by me severally duly sworn, said that they, the said James D. Rector and James T. Beresheim were respectively the Vice-President and the Assistant Secretary of the said UNITED STATES FIDELITY AND GUARANTY COMPANY, the corporation described in and which executed the foregoing Power of Attorney; that they each knew the seal of said corporation; that the seal affixed to said Power of Attorney was such corporate seal, that it was so fixed by order of the Board of Directors of said corporation, and that they signed their names thereto by like order as Vice-President and Assistant Secretary, respectively, of the Company.

My commission expires the first day in July, A. D. 19 82...

(SEAL) (Signed) Margaret M. Hurst
Notary Public.

STATE OF MARYLAND, BALTIMORE CITY, } Sct.

I, William Allen, Clerk of the Superior Court of Baltimore City, which Court is a Court of Record, and has a seal, do hereby certify that Margaret M. Hurst, Esquire, before whom the annexed affidavits were made, and who has thereto subscribed his name, was at the time of so doing a Notary Public of the State of Maryland, in and for the City of Baltimore, duly commissioned and sworn and authorized by law to administer oaths and take acknowledgments, or proof of deeds to be recorded therein. I further certify that I am acquainted with the handwriting of the said Notary, and verily believe the signature to be his genuine signature.

In Testimony Whereof, I hereto set my hand and affix the seal of the Superior Court of Baltimore City, the same being a Court of Record, this 5th day of December, A. D. 19 80

(SEAL) (Signed) William Allen
Clerk of the Superior Court of Baltimore City.

FS 3 (6-77)

COPY OF RESOLUTION

That Whereas, it is necessary for the effectual transaction of business that this Company appoint agents and attorneys with power and authority to act for it and in its name in States other than Maryland, and in the Territories of the United States and in the Provinces of the Dominion of Canada and in the Colony of Newfoundland.

Therefore, be it Resolved, that this Company do, and it hereby does, authorize and empower its President or either of its Vice-Presidents in conjunction with its Secretary or one of its Assistant Secretaries, under its corporate seal, to appoint any person or persons as attorney or attorneys-in-fact, or agent or agents of said Company, in its name and as its act, to execute and deliver any and all contracts guaranteeing the fidelity of persons holding positions of public or private trust, guaranteeing the performances of contracts other than insurance policies and executing or guaranteeing bonds and undertakings, required or permitted in all actions or proceedings, or by law allowed, and

Also, in its name and as its attorney or attorneys-in-fact, or agent or agents to execute and guarantee the conditions of any and all bonds, recognizances, obligations, stipulations, undertakings or anything in the nature of either of the same, which are or may by law, municipal or otherwise, or by any Statute of the United States or of any State or Territory of the United States or of the Provinces of the Dominion of Canada or of the Colony of Newfoundland, or by the rules, regulations, orders, customs, practice or discretion of any board, body, organization, office or officer, local, municipal or otherwise, be allowed, required or permitted to be executed, made, taken, given, tendered, accepted, filed or recorded for the security or protection of, by or for any person or persons, corporation, body, office, interest, municipality or other association or organization whatsoever, in any and all capacities whatsoever, conditioned for the doing or not doing of anything or any conditions which may be provided for in any such bond, recognizance, obligation, stipulation, or undertaking, or anything in the nature of either of the same.

I, Richard Calder, an Assistant Secretary of the UNITED STATES FIDELITY AND GUARANTY COMPANY, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney given by said Company to Arthur C. Frericks, Donald T. Belbutowski, Gerald A. Dahle and Leonard Shirley

of Fort Wayne, Indiana, authorizing and empowering them to sign bonds as therein set forth, which power of attorney has never been revoked and is still in full force and effect.

And I do further certify that said Power of Attorney was given in pursuance of a resolution adopted at a regular meeting of the Board of Directors of said Company, duly called and held at the office of the Company in the City of Baltimore, on the 11th day of July, 1910, at which meeting a quorum of the Board of Directors was present, and that the foregoing is a true and correct copy of said resolution, and the whole thereof as recorded in the minutes of said meeting.

In Testimony Whereof, I have hereunto set my hand and the seal of the UNITED STATES FIDELITY AND GUARANTY COMPANY on October 28, 1981
(Date)

Richard Calder
Assistant Secretary.

Hagerman Construction Corporation

GENERAL CONTRACTORS

Office 510 West Washington Blvd · Phone 219-424-1470
P O Box 10690
FORT WAYNE, INDIANA 46853

October 29, 1981

H.N.T.B.
3333 Founders Lane
Indianapolis, Indiana 46268

Re: Advanced Waste Water Treatment Facility

Gentlemen:

Please be advised that we are requesting an extension of time on the above project of 60 days from the date of the notice to proceed from the City Of Fort Wayne by its Board Of Public Works.

This request is due to the fact that we were unable to start construction as originally figured in our bid submitted April 24, 1981, which contemplated that construction would be underway within the 90 day period. Therefore, we are now faced with starting the project during the winter weather and adverse conditions and our request, we believe, should be honored accordingly.

Very truly yours,

HAGERMAN CONSTRUCTION CORPORATION

By
William L. Kerr, Secretary

WLK:sw

c.c. Mr. Tom Latchem, Chairman Board Of Works
Mr. Phil Boller, Director Of Water Resources

5482

TITLE OF ORDINANCE CONTRACT FOR THE ADVANCED WASTEWATER TREATMENT PLANT, PHASES A,B,& C

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

E-81-11-21

SYNOPSIS OF ORDINANCE A CONTRACT BETWEEN THE CITY AND HAGERMAN-SHAMBAUGH TO PROVIDE AND FURNISH ALL OF THE LABOR, MATERIALS, NECESSARY TOOLS, EQUIPMENT AND ALL UTILITY AND TRANSPORTATION SERVICES REQUIRED TO PERFORM AND COMPLETE IN A WORK MANLIKE MANNER THE CONSTRUCTION OF THE ADVANCED WASTEWATER TREATMENT (AWT) PHASE A,B, & C IN ACCORDANCE WITH SEWAGE WORK GRANT NO. C-180744-03

EFFECT OF PASSAGE THE CITY OF FORT WAYNE WILL OBTAIN THE EFFLUENT LIMITATIONS FROM ITS WASTEWATER TREATMENT PLANT REQUIRED BY THE FEDERAL GOVERNMENT TO DISCHARGE INTO THE MAUMEE RIVER.

EFFECT OF NON-PASSAGE VIOLANTIONS TO EFFLUENT LIMITATIONS CAN COST THE CITY $10,000 PER DAY THE VIOLATION OCCURS.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) CONTRACT BID PRICE $12,938,000.00 EPA PARTICIPATION 75% , STATE PARTICIPATION 10%, CITY UTILITIES 15%

ASSIGNED TO COMMITTEE

sa